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IN THE

Supreme Court of the United States

OCTOBER TERM, 1972.

No. 71-1193

UNITED STATES OF AMERICA,
Appellant,

vs.

TRAVIS PAUL ENMONS, JACKIE J. BENDO, ED WAYNE BARTON AND MILTON WOODWARD.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF LOUISIANA.

BRIEF AMICUS CURIAE OF THE CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA.

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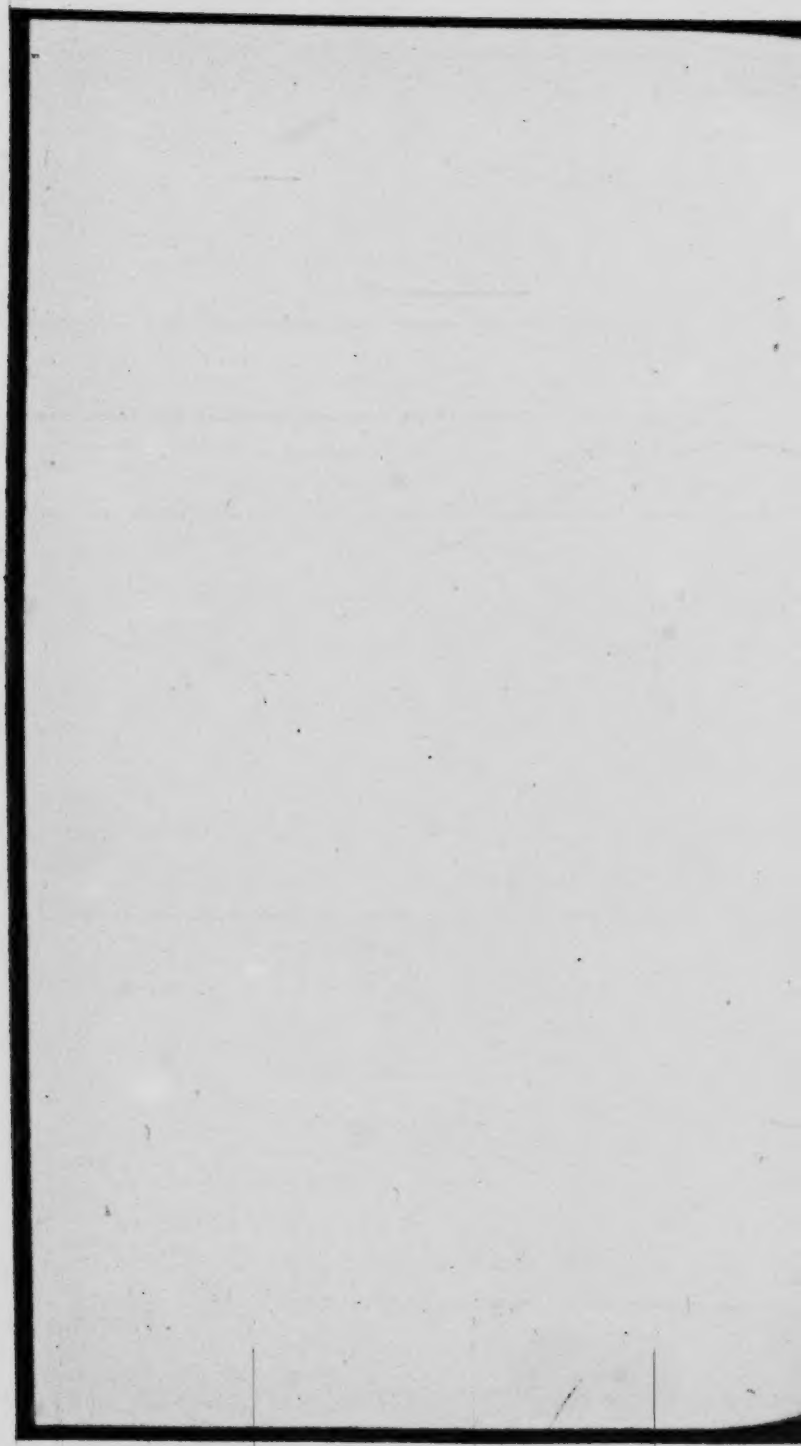

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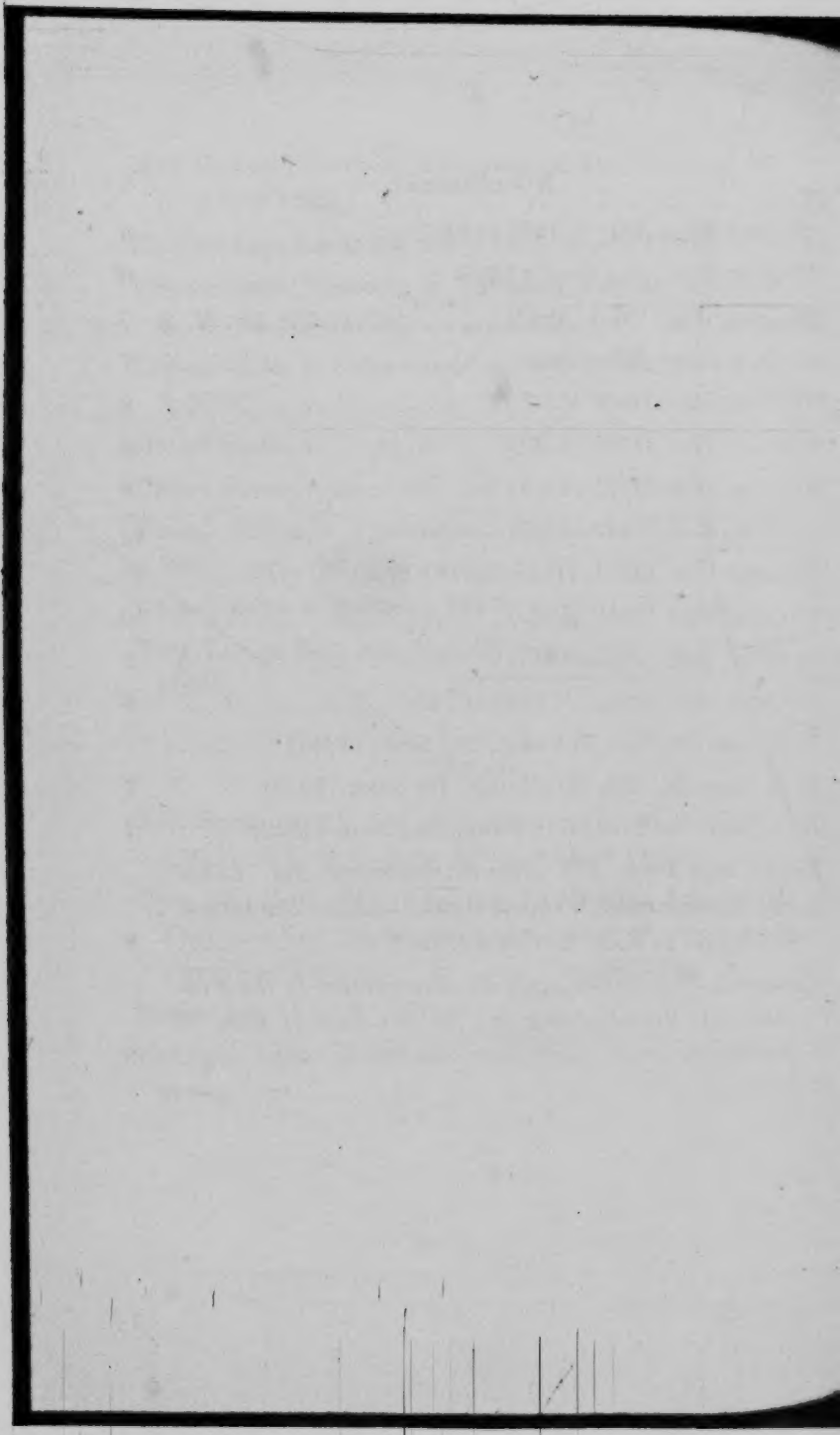

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BRIEF AMICUS CURIAE OF THE CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA.

INTEREST OF THE AMICUS CURIAE.

The Chamber of Commerce of the United States is a federation consisting of a membership of over thirty-seven hundred (3700) state and local chambers of commerce and professional and trade associations, a direct business membership in excess of thirty-eight thousand (38,000), and an underlying membership of approximately five million

(5,000,000) business firms and individuals. It is the largest association of business and professional organizations in the United States.

The Chamber has appeared as *amicus curiae* in this Court in a wide range of labor relations matters which have substantially affected the legitimate and vital interests of its members. Examples of such cases in which the Chamber has recently participated include *N. L. R. B.* v. *Pittsburgh Plate Glass Co.*, ____ U. S. ____, 30 L. Ed. 2d 341 (1971); *Boy's Markets* v. *Retail Clerks Union*, 398 U. S. 235 (1970); *N. L. R. B.* v. *Burns International Security Services, Inc.*, ____ U. S. ____, 80 LRRM 2225 (1972); *H. K. Porter Co.* v. *N. L. R. B.*, 397 U. S. 99 (1970); *Sears, Roebuck and Co.* v. *Carpet Layers, Local 419*, 397 U. S. 655 (1970); and *Los Angeles Herald Examiner* v. *Kennedy*, 400 U. S. 3 (1970).

During this very Term, the Chamber has also participated as *amicus curiae* in *N. L. R. B.* v. *Granite State Joint Board, Textile Workers Union of America, Local 1029, AFL-CIO*, No. 71-7111; *N. L. R. B.* v. *International Van Lines*, No. 71-895; *Sid Harvey, Inc. and Sid Harvey Brooklyn Corp.* v. *Local 810, et al.*, No. 72-556; *Phelps Dodge Corporation* v. *AFL-CIO Joint Negotiating Committee for Phelps-Dodge Corporation, et al.*, Nos. 72-220, 72-359; and *Terminal Freight Cooperative Association, et al.* v. *N. L. R. B.*, No. 72-501.

The participation by the Chamber in the cited matters has been a function of the importance of the issues they presented, conceptually and practically, to the Chamber's members, constituting the broadest and most comprehensive class of employers in commerce. Moreover, this Court has recognized in *UAW* v. *Scofield*, 382 U. S. 205 (1965), that the interests of parties who are aggrieved by unlawful conduct are not identical to those of the government's agents and agencies which prosecute or seek to remedy such

unlawful conduct. This Court has therefore determined that such aggrieved parties should be permitted to participate in the appellate deliberation of matters affecting their vital interests even where, as in *Scofield*, no express statutory basis existed for their doing so. One of the principles which has motivated the Chamber to seek participation in this Court in selected labor matters is that absent such participation the views of those uniquely affected by the challenged unlawful conduct would not find expression here. *(E.g., N. L. R. B.* v. *Granite State Joint Board, et al.)*

The instant case satisfies both criteria. The question presented, whether the penalties of fine and imprisonment provided under the Hobbs Act (18 U. S. C. 1951) apply to acts of violence committed by unions for the purpose of coercing employers to consent to higher wages or other contract demands, is of enormous importance to the Chamber's members since they belong to the class of persons whom the Hobbs Act was intended to protect. Such employers are currently without a genuinely effective, reliable and uniform deterrent against acts of violence committed by unions or employees in aid of collective bargaining objectives which cannot otherwise be obtained.

The obvious significance of securing the protection of such a legal deterrent, coupled with the fact that the parties to the instant proceeding include no employers for whose benefit the statute in question was enacted, impels the Chamber respectfully to submit its views to the Court.

SUMMARY OF ARGUMENT.

The enactment by Congress in 1946 of the Hobbs Act represented an effort to establish the principle that acts or threats of violence by labor unions and their agents would not be immune from federal anti-racketeering laws, regardless of whether the purpose of such violent conduct was to extract monies from employees in the absence of a bona fide employment relationship or whether such conduct occurred in the context of a collective bargaining relationship.

The deliberate omission from the Hobbs Act of all language which would except from the Act's coverage the activity of labor unions or their agents,—language which appeared in the predecessor Anti-Racketeering Act of 1934,—reflected a Congressional purpose to prescribe *improper means* by which agents of labor unions or others might seek to obtain the property of another and without regard either to the propriety of the objectives sought if pursued by legitimate means, or the nature of the property to be extracted.

The protections provided by the Hobbs Act to employers who are victimized by threats and acts of violence in order to obtain from them greater wages or benefits are needed since there does not now exist any comparable or reliable and effective alternatives to the deterrent effect of that statute. Moreover, while the Hobbs Act affords such needed protection to potentially aggrieved employers, its enforcement against employees and union agents offends no legitimate interests of labor organizations.

ARGUMENT.

A. LEGISLATIVE HISTORY AND THE TERMS OF THE STATUTE ITSELF DEMONSTRATE CONGRESS' INTENT THAT THE PROSCRIPTIONS OF THE HOBBS ACT EXTEND TO ALL LABOR DISPUTES.

1. The Legislative Debates.

The Hobbs Act is a successor statute to the Coleman Act of 1934, popularly known as the Anti-Racketeering Act, the first federal anti-racketeering statute.[1] That statute provided in pertinent part:

> "Section 2. Any person, who, in connection with or in relation to any act in any way or in any degree affecting trade or commerce . . . (a) obtains or attempts to obtain, by the use of or attempt to use or threat to use force, violence or coercion, the payment of money or other valuable considerations . . . *not including, however, the payment of wages by a bona fide employer to a bona fide employee;* . . . (d) . . . shall, upon conviction thereof, be guilty of a felony . . .".

In addition to the italicized language quoted in Section 2 above, the 1934 Act also included other exclusionary language designed to insulate the conduct of labor unions from the reach of the statute:

> "Section 3(b). The terms 'property', 'money', or 'valuable considerations' used herein shall not be deemed to include wages paid by a bona-fide employer to a bona-fide employee.
>
> "Section 6. . . . Provided, That no court of the United States shall construe or apply any of the provisions of this Act in such manner as to impair, diminish, or in any manner affect the rights of bona-fide labor organi-

1. 48 Stat. 979 (1934), 18 U. S. C. Secs. 420(a)-420(d) (1940).

zations in lawfully carrying out the legitimate objects thereof, as such rights are expressed in existing statutes of the United States."

The nature of the relationship between these exclusionary provisions and the broad proscriptions which they modified did not come before this Court until 1942 in *United States* v. *Local 807, I. B. T.*, 315 U. S. 521. That case involved the question as to whether it was an offense under the Anti-Racketeering Act for persons to engage in violence for the purpose of obtaining money without rendering service therefor. The narrow issue in the case, both before the Second Circuit and this Court on review, was the propriety of the trial judge's charge to the jury that, if the jury should find that the sums paid by the employer were made to induce the defendants to cease their violent interference with his business and not for services rendered, then the sums could not be regarded as wages paid by a bona-fide employer to a bona-fide employee within the terms of the exclusionary provisions of the Act.

In concluding that the trial judge's instruction was erroneous, this Court held that these exclusionary provisions demonstrated that Congress intended to leave unaffected the "ordinary" or "familiar" activities of labor unions and that the conduct involved in *Local 807*, although it involved violence and coercion in an effort to extract wages from an employer, was such "familiar" activity. Chief Justice Stone's dissent, asserting the belief that an employer's purchase of immunity from violent interference with his business did not constitute bona-fide payments of wages to bona-fide employees under the statute, expressed his view that the Court's holding misinterpreted Congress' purpose by, in effect, immunizing all union conduct from the reach of the Act.

The subsequent passage of the Hobbs Act reflected Congress' agreement with the views of the Chief Justice and

demonstrated its will that unions should enjoy no immunity from federal legislation barring extortionate conduct. A bill to amend the 1934 Act and to undo the consequences of *Local 807* was introduced in the House by Congressman Hobbs within several months of the issuance of that decision.[2] Although a majority of the House Judiciary Committee reported favorably on the bill following the holding of hearings, the bill did not survive that session of Congress.[3] In the following year, the bill passed the House but was not reported out by the Senate Judiciary Committee.[4] In the next following session of Congress, the Seventy-Ninth, following passage by the House,[5] its provisions were incorporated into the Case bill which was then passed by Congress.[6] The Case bill was vetoed by President Truman, despite his stated agreement with the anti-racketeering portion of the measure, because it failed to state expressly that it was not intended to qualify unions' right to strike and picket *peacefully* or to take other *legitimate* and *peaceful* concerted action.[7]

The continuing Congressional desire to enact legislation rendering the conduct of labor unions subject to anti-racketeering laws, with which objective even the President was in accord, persisted unabated following the veto. For immediately following the veto message on the Case bill, the Senate called up and passed the Hobbs bill, which had

2. 88 Cong. Rec. 3101-2 (1942).

3. H. R. Rep. No. 2176, 77th Cong., 2nd Sess. (1942).

4. 89 Cong. Rec. 3230 (1943).

5. 91 Cong. Rec. 11922 (1945); H. R. Rep. No. 238, 79th Cong., 1st Sess. (1945).

6. H. R. 4908, "An Act to provide additional facilities for the mediation of labor disputes and for other purposes." 92 Cong. Rec. 6798-99.

7. H. R. Doc. No. 651, 79th Cong., 2nd Sess. (1946).

previously passed the House, and it was enacted into law upon the President's signature on July 3, 1946.[8]

The zeal with which Congress pursued the general objective to render unions subject to anti-racketeering laws and to render unlawful the coerced payment of wages is demonstrated not merely by the persistence of the effort during one Congressional session after another starting in 1942, but also in the debates which preceded the enactment of the Hobbs Act in 1946.

> "We think a mistake was made by the Supreme Court, [and] we are attempting to correct it through enacting a new law."[9]

> "It was the purpose of the Judiciary Committee [in eliminating Section 6 of the 1934 Act] to prevent the rendition of that sort of decision by any court in the future, so the language upon which that holding was based was eliminated."[10]

> "The necessity for this measure grows out of the misconstruction placed upon the anti-racketeering law enacted in 1934 by what is popularly known as the Byrnes opinion in the case of United States against Local 807. . . . Congress, at the insistance of certain labor leaders, undertook to exempt the payment *in good faith* of wages to an employee from the operation of this law, but the Supreme Court went beyond this intention of Congress, as expressed in the act of 1934,

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8. 92 Cong. Rec. June 21, 1946, at 7434; Pub. L. No. 486, 79th Cong., 2nd Sess. (1946); 79 Cong. Rec., July 3, 1946 at 8487. With respect to the legislative history of the Hobbs Act, see also Comment, *The Hobbs Act—an Amendment to the Federal Anti-Racketeering Act,* 25 No. Caro. L. Rev. 58 (1946); Brown & Peer, *The Anti-Racketeering Act: Labor and Management Weapon Against Labor Racketeering,* 32 N. Y. L. Rev. 965 (1957).

9. Representative Hancock of New York, 91 Cong. Rec. 11900 (1945).

10. Representative Summers of Texas, 91 Cong. Rec. 11909 (1945).

and . . . said it was the intention of Congress to sanction common-law robbery.'"[11] (Emphasis added.)

None of the debates distinguished the situation where threats or acts of violence were intended to coerce the payment of wages without services performed therefor, from the situation where employees intended to perform services for the wages violently extracted. Rather, the debates reveal a general disposition to remove the immunity which this Court found in *Local 807*. For in that case, an underlying premise of the Court's decision was that any conduct in which unions had in the past engaged and which was designed to promote some union interest was to be exempt from the 1934 Act, despite the presence of violence accompanying the union's activity.[12] And it was in response to that premise or rationale that Congress moved so zealously and laboriously to amend the statutory language which gave rise to such an interpretation. It follows, therefore, that the Congressional purpose in amending the 1934 Act, as the above quotes illustrate, was generally to render unions' violent conduct subject to anti-racketeering measures; the legislative purpose was not merely to specify that monies extracted without the performance of services should not be construed as "wages" within the meaning of the 1934 Act. Indeed, had Congress so limited an objective, its achievement did not require an entirely new statute hammered out over four years and a voluminous legislative history which nowhere emphasizes so restrictive a goal.

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11. Representative Jennings of Tennessee, 91 Cong. Rec. 11911 (1945).

12. In its opinion in *Local 807*, this Court expressly noted: "We have expressed our belief that Congress intended to leave unaffected the ordinary activities of labor unions. . . . The test must, therefore, be whether the particular activity was among or is akin to labor union activities with which Congress must be taken to have been familiar when this measure was enacted." 315 U. S. at 535.

Additional evidence from the legislative history of the board Congressional desire that violence in the name of union objectives should enjoy no greater protection from anti-racketeering laws than violence for any other purpose derives from the proposed amendments to the Hobbs bill which Congress refused to adopt. Thus, Representative Celler of New York sought to insert in the bill an exception for cases where the payment attempted to be exacted through violence or threats of violence was "wages paid by a bona fide employer."[13] Proponents of the bill argued in opposition to this amendment that it was substantially the same as the exception in the 1934 Act "which caused the error into which the Supreme Court fell when the majority opinion was rendered in the *Local 807* case".[14]

The rejection of the Celler amendment was followed by a proposed amendment by Representative LaFollette of Wisconsin which bears importantly on the question, presented in this case, as to whether Congress' purpose in enacting the Hobbs Act was merely to render unlawful violence in pursuit of wages without services to be performed therefor. Representative LaFollette's amendement would have continued the 1934 exception of "wages paid by a bona fide employer" substantially in the form in which it appeared in the 1934 Act, but would have limited "the payment of wages by a bona fide employer to a bona fide employee" to exclude any payments made in response to force or violence.[15] This amendment was similarly rejected. Its effect, had it been adopted, would have been to reverse this Court's decision in *Local 807;* the exception to the operation of the 1934 Act for cases involving the payment of wages would have disappeared when violence was present, while the expansive construction of what constitutes "wages" contained in *Local 807* would have remained un-

13. 91 Cong. Rec. 11913 (1945).
14. 91 Cong. Rec. 11914 (Rep. Hobbs), 11915, 11918 (1945).
15. 91 Cong. Rec. 11919 (1945).

affected. The failure of adoption of the LaFollette amendment establishes that in enacting the Hobbs Act, Congress intended not merely to reverse a narrow judicial holding, but to reverse the premises upon which it rested and to created a broad-gauged law in which violence or threats of violence by unions is accorded no greater immunity or respectability than the same conduct perpetrated by any other agency. A restrictive reading of the Hobbs Act, as is sought in this case, to exclude from its coverage violence by unions for the purpose of extracting wages for which services will be performed is without warrant in the legislative history of the statute.

While this Court has recognized in *United States* v. *Green*[16] that one result of the Hobbs Act was to overturn the specific holding in *Local 807*, the Court also recognized the achievement by Congress of a broader purpose:

> "The legislative history makes clear that the [Hobbs] Act was meant to eliminate any grounds for future judicial conclusions that Congress did not intend to cover the employer-employee relationship."

The method chosen by Congress to bring labor union excesses within the reach of the Hobbs Act was to avoid distinctions between the *objectives* of violent conduct,—the vice of the 1934 Act as interpreted by *Local 807*,—but to focus instead on the *means* chosen to achieve those objectives. Thus, according to *U. S.* v. *Green*, the violent acts perpetrated by the union in that case became subject to the proscription of the Hobbs Act not because the wages to be extracted were for unwanted services, but because the violent acts committed "are not legitimate *means* for improving labor conditions".[17] (Emphasis added). The illegitimacy of violence as a means for promoting unions'

16. 350 U. S. 415 (1956).
17. 350 U. S. at 420.

interests applies equally whether or not services are to be performed for the wages sought to be violently extracted.[18]

2. The Terms of the Statute.—

As enacted, the Hobbs Act contains no limitations or qualifications either with respect to who may violate its terms or whether there exist any objectives the violent pursuit of which may be exempt from the statute's reach. On its face, the Act applies to "whoever in any way" affects commerce by obtaining another's property, with his consent, by means of actual or threatened force or fear; no effort was made to formulate or even imply any distinction between legitimate or improper ends to which actual or threatened violence may be applied. Similarly, each of the three specific exclusionary clauses which had been inserted in the 1934 Act in order to protect or insulate union conduct was deleted from the Hobbs Act. Thus, Congress omitted from the Hobbs Act the prior exemption for payments of wages by a bona-fide employer to a bona-fide employee (Section 2(a) of the 1934 Act); omitted the definition of "property" which excluded the payment of wages (Section 3(b)); and omitted the interpretive direction that the statute should not be construed to impair or affect the rights of unions in carrying out their legitimate objects (Section 6).

The combination of the unqualified terms of the statute, together with the omission of all limiting references to unions' coverage thereunder,[19] requires the conclusion that

18. See, for example, *U. S.* v. *Sweeney*, 262 F. 2d 272 (CA 3, 1959), where the objectives of a union steward were to secure an increase in wages and payments into a welfare fund for employees whose services were utilized and desired.

19. In Title II of the Hobbs Act, Congress provided that nothing contained therein should be construed to repeal, modify or affect the Clayton Act, Norris-LaGuardia Act, Railway Labor Act or National Labor Relations Act. However, since nothing contained in any of those statutes is incompatible or inconsistent with or duplicative of the Hobbs Act, Title II cannot be considered as a limitation on unions' coverage under Hobbs. *U. S.* v. *Green*, *supra*.

Congress intended unions to be unqualifiedly subject to its terms. The deliberate omission of the former Section 6 is particularly significant in this connection since that Section of the 1934 Act was susceptible of the interpretation that any union's objective not itself unlawful and arguably in the union's self-interest would be immune from the coverage of Congress' anti-racketeering laws despite its pursuit by violent means.

As noted above, it is not rational to impute to Congress' enactment of the Hobbs Act an intent other than to render all union conduct unqualifiedly subject to its terms. Had Congress the lesser purpose, as urged by appellees herein, merely to amend the 1934 Act to provide that efforts to secure wages for unwanted or fictitious services should be covered, then quicker and simpler means than the enactment of a wholly new law were available: Congress could have achieved that limited result by amending Section 2(a) of the 1934 Act to define "bona fide employees" as those whose services were desired; or Section 3(b) could have been amended to provide that monies sought for unwanted services should not be deemed to be "wages". Congress' failure to adopt either or a similar course establishes that it had a different and broader objective.

B. THE BASES FOR THE REFUSAL BY THE COURT BELOW TO APPLY THE HOBBS ACT IN A COLLECTIVE BARGAINING CONTEXT LACK MERIT.

The Court below premised its conclusion that the prohibitions of the Hobbs Act do not apply to efforts to extract wage concessions during contract negotiations on two premises: first, the Hobbs Act was said to extend only to situations in which wages were to be extracted for unwanted services; and second, that where a union's ultimate objective in securing wages is lawful, although the means used may be violent, such wages do not constitute "property" within the Hobbs Act definition of extortion. The view that

the operation of the Hobbs Act requires either an unlawful end or unwanted services is incorrect as an interpretation of legislative history, as noted *supra*, as a reading of *U. S.* v. *Green*, which distinguished between legitimate and illegitimate *means* for securing improved labor conditions, and as a matter of logic. For no explanation has been offered to demonstrate why Congress, anxious to curb the use of violence in forcing employers to relinquish their property, should have intended to except instances where the use of such violence by a union is a result of the union's failure to achieve its objectives by peaceful and legitimate means by which the same objectives might have been achieved. Even should one disregard the terms of the statute itself, which do not condition its operation on the nature of the object on whose behalf violence may be exercised, and also disregard the statute's express reach to "*Whoever* in *any* way or degree obstructs, delays or affects commerce . . .", there nonetheless remains no basis in the legislative history or the statute itself for concluding that Congress affirmatively desired to leave uncovered acts of violence in connection with an objective which would be permissible absent such violence. It is no answer to say that the redress for the harms thus committed should in such cases be left to local law and authorities since the same argument is equally valid as applied to situations clearly covered by the Hobbs Act where local remedies would also otherwise be available.

Nor is there adequate basis in logic for distinguishing between the treatment of wages as property in situations where force is used to secure such wages for unwanted services as opposed to those situations where force is used to secure additional wages for wanted services. In both instances the funds sought belong to another who has determined, as he has a right to do, not to give them. It is true that the proposed recipients of the wages in the two instances are different classes of persons, non-em-

ployees and employees; but it is unclear how the identity of the person who would secure such wages by violent means could affect the nature of those wages as "property". Given the same funds of the same person in the two situations described, equally unwillingly given, equally secured only by resort to the same acts of actual or threatened violence, the same conclusion should follow: both instances represent the wrongful taking of the property of another in violation of the Hobbs Act. Apart from the logic of this conclusion, there also exist a series of authorities which hold that where business concerns deplete assets which would otherwise be used to carry on their businesses in order to make payments induced by violence, that constitutes an effect on commerce sufficient to bring the matter within the proscriptions of the Hobbs Act.[20] The forced payments of additional wages for services which, but for the presence of violence would not be made, would appear to have the requisite impact on commerce. It would be anomalous to conclude that improperly extracted payments of wages to union agents affect commerce within the Hobbs Act but do not involve the transfer of "property" within the same Act. So quixotic an interpretation of the statute should be avoided.

C. THE HOBBS ACT SHOULD BE APPLIED AS A MATTER OF SOUND POLICY TO THE EXERCISE OF VIOLENCE IN COLLECTIVE BARGAINING SITUATIONS.

In order to inhibit the use of violence as a means for securing collective bargaining concessions not otherwise obtainable, the strongest deterrent is warranted and needed. Current remedies are not demonstrably adequate to constitute such an effective deterrent. Local or state

20. *U. S.* v. *Provenzano*, 334 F. 2d 678 (CA 3, 1964), cert. den. 379 U. S. 947; *Esperti* v. *U. S.*, 406 F. 2d 148 (CA 5, 1969), cert. den. 395 U. S. 938.

remedies vary in the nature of their coverage, the severity of the penalties which they impose, and the reliability of their enforcement. Reliance upon local remedies is not consistent with Congress' desire to create uniformly effective and concedely harsh penalties for conduct which by its nature tends to create irreparable harm without legal, social or moral justification. Absent the application of the Hobbs Act, no federal statute or system of laws exists to achieve this Congressional objective.

The National Labor Relations Act, a remedial statute, was neither designed nor is it adequate to do so. While the Labor Act renders unlawful threats and acts of violence in employment, bargaining and organizational contexts,[21] the remedies provided cannot be considered a sufficient response to acts of warfare. The posting of notices, administrative cease-and-desist orders for future violations and, where appropriate, the award of back pay and the withholding of bargaining orders are no substitutes for the fine and criminal penalties imposed under the Hobbs Act.

There is an implication contained in the Ninth Circuit's recent opinion in *United States* v. *Caldes and Lowery*,[22] that the Hobbs Act may not have been intended to cover violence in connection with existing collective bargaining relationships because the legislative debates on the National Labor Relations Act, enacted one year after the Hobbs Act and banning picket line violence in Section 8(b)(1)(A) thereof, made no reference to any such similar prior statutory prohibition. Such a suggestion is demonstrably incorrect. It is accepted doctrine that nothing contained in the Labor Act or its legislative history bars punishment under other laws for violence which may also

21. *Vera Ladies Belt and Novelty Corp.*, 156 NLRB 291 (1965); *Al Long, Inc.*, 173 NLRB No. 76 (1968); *Steelworkers Local 586*, 174 NLRB No. 34 (1968); *Casino Operations, Inc.*, 169 NLRB No. 43 (1968); *Laura Modes Co.*, 144 NLRB 1592 (1963).

22. 457 F. 2d 74 (CA 9, 1972).

be the subject of NLRB proceedings; similarly, Congressional silence on the subject during its deliberations has never been held to establish Congress' desire to restrict relief, where violence occurs in a collective bargaining context, to the remedies provided under the National Labor Relations Act.[23] On the contrary, relief has regularly been provided by the States for such acts of violence, with judicial approval. Because the matter is not pre-empted to the processes of the Board, such relief may also be provided by another federal statute where Congress has determined, as here, not to rely on the nature and limits of the States' ability or willingness to act.[24]

Moreover, it is conceded by the court below that picket line violence for the purpose of obtaining wages where no services are to be performed constitutes a violation both of the Hobbs Act as well as Section 8(b)(1)(A) of the Labor Act. It cannot, therefore, follow either that relief under the Labor Act obviates the need for Hobbs Act relief for the same acts of violence, or that Congress intended one or the other statute, but not both, to apply to any given situation.

In sum, unions' legitimate interests do not require immunity from the Hobbs Act and employees' right to engage in concerted activity will not be inhibited by coverage under that Act. The consequences of violence in a bargaining context are adverse to employees' rights as well as employers' rights; however, the National Labor Relations Act does not and cannot afford adequate protection from the consequences of such violence nor can it serve as an effective deterrent. Since redress for violent acts in a collective

23. *Milk Wagon Drivers* v. *Meadowmoor Dairies, Inc.*, 312 U. S. 287 (1941); *Masonite Corp.* v. *Woodworkers*, 215 So. 2d 691, cert. den. 394 U. S. 974 (1969); *United Farm Workers* v. *LaCasita Farms, Inc.*, 439 S. W. 2d 298 (1968).

24. See *Amalgamated Motor Coach Employees* v. *Lockridge*, 403 U. S. 274, fn. 7 (1971).

bargaining relationship is not pre-empted to the NLRB, the demonstrable Congressional concern for effective means to combat and prevent such conduct should be interpreted to have invested in the Hobbs Act the means by which to achieve this objective.

CONCLUSION.

For the reasons stated herein, as well as those previously given by the Appellant, it is urged that the decision below be reversed.

Respectfully submitted,

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